THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.8704 OF 1995

DATE: 12th September 2006

Between:
Kapavarapu Venkataratnam,
S/o Narasimhamurthy, Pedamiramu Post,
Kalla Mandalam, West Godavari District.

.... Petitioner.

And

1. The Presiding Officer,
   Labour Court, Guntur and 3 others.

.... Respondents.

* * *

ORDER:

This writ petition is directed against the Award dated 31.12.1991 made in I.D.No.355 of 1989 on the file of the Labour Court at Guntur.

2. The petitioner is the claimant. He was appointed as maistry by the Executive Engineer, (R & B), Kakinada, by an order dated 14.12.1979. Since then he has been discharging his duties to the utmost satisfaction of one and all. While so, the second respondent retrenched the

services of the petitioner without any reason with effect from 30th May 1983. No procedure as required under law was followed. Therefore, the order of termination is arbitrary, illegal and against the provisions of Section 25 F of the Industrial Disputes Act (for short 'the Act'). Though the claimant approached the respondent several times, all his efforts went in vain, therefore, the claim petition.

3. The first respondent filed counter denying all the allegations made by the petitioner-claimant and it was asserted that as per the service record furnished by the petitioner it is evident that he worked under C.R.H.P. sub-division, Bhimavaram, which is not currently functioning at Bhimavaram. Moreover, even during the functioning of C.R.H.P. R & B sub-division at Bhimavaram, it was not under the control of Kakinada sub-division or main

division or it was either wound up or shifted to some other place. The claimant never worked under the control of Kakinada or Bhimavaram divisions.

4. The third respondent also filed a counter denying the allegations made by the petitioner-claimant and stated that the claimant does not have continuous service of 3 ½ years as alleged by him and it constitutes several breaks. The services of the claimant were not terminated and the claimant himself did not go and join at Yellamanchili and kept under the control of R & B, C.R.H.P. Division, Visakhapatnam from June 1983 onwards. Therefore, it is a clear case where the claimant himself abandoned his service due to shifting of sub-division.

5. The claimant examined himself as W.W.1 and also marked Exs.W-1 and W-2. On behalf of management

M.W.1 was examined and no documents were marked.

6. After elaborate consideration of both oral and documentary evidence, the Labour Court came to the conclusion that the claimant is not entitled for reinstatement into service as prayed for, and therefore, dismissed the petition. Aggrieved by the same, the present petition is filed.

7. Heard both sides.

8. Learned counsel for the petitioner submits that the petitioner has completed 240 days from 02.10.1982 to 30.6.1983 i.e., the date of termination, therefore, the petitioner is entitled for a notice as required under Section 25F of the Act. Since the same was not followed the termination of the petitioner is illegal. On the other hand, W.W.1 i.e., the petitioner admitted in his cross-examination that he did not file any document to prove

that he approached the Assistant Commissioner of Labour for conciliation proceedings. Ex.W-1 shows that the workman had worked as Mason Maistry on N.M.R. basis from 02.10.1982 to 30.6.1983. Ex.W-2 is the service certificate, which shows that the workman had worked from 22.11.1979 to 31.8.1982 with some break of service for every three months or four months. There is no record to show that the claimant worked under the management nor the claimant has been able to prove that he went to Yellamanchili sub-division and the management refused to allow him to work in the said sub-division. Thus, the Labour Court came to the conclusion that the petitioner himself abandoned his service. I am of the considered opinion that the Labour Court has not committed any error in coming to the conclusion that when the sub-division was shifted to Yellamanchili with effect from 30.6.1983, the petitioner did not go to Yellamanchili

and joined there for the purpose of attending his duties nor he claimed any such thing at the earliest point of time. Therefore, the Labour Court rightly came to the conclusion that the petitioner himself abandoned the duty and there are no grounds to interfere with the order impugned.

9. The writ petition is accordingly dismissed. No costs.

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C.V.RAMULU, J.

Date: 12th September 2006.
BSB